

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DWAYNE WRIGHT,
Petitioner,

v.

MARGARET GILBERT,
Respondent.

CASE NO. C16-5097 RBL-KLS

ORDER DENYING PETITIONER'S
MOTIONS FOR COUNSEL AND
EVIDENTIARY HEARING

On February 8, 2016, Petitioner Dwayne Wright filed a petition for writ of habeas corpus. Dkt. 2. He also filed motions for the appointment of counsel and for an evidentiary hearing. Dkts. 9 and 10. Under separate Order, the Court has directed service of the petition for writ of habeas corpus. The petition has not yet been served and the time for Respondent to file an answer to the petition and the relevant state court record has not yet passed.

DISCUSSION

There is no constitutional right to the appointment of counsel in a federal habeas corpus proceeding brought under 28 U.S.C. § 2254. If an evidentiary hearing is required, however, the Court may appoint counsel for a petitioner who qualifies under 18 U.S.C. § 3006(A)(g). Rule 8(c), 28 U.S.C. foll. § 2254. The Court may also appoint counsel at an earlier stage of the proceedings if the interest of justice so requires. *Id.*; 18 U.S.C. § 3006(A).

1 The decision to hold an evidentiary hearing is committed to the Court's discretion.
2 *Schriro v. Landrigan*, 550 U.S. 465, 481 (2007). A hearing is not required if the allegations
3 would not entitle petitioner to relief under 28 U.S.C. § 2254(d). *Id.* at 474. "It follows that if the
4 record refutes the applicant's factual allegations or otherwise precludes habeas relief, a district
5 court is not required to hold an evidentiary hearing." *Id.*

6 Mr. Wright has not demonstrated that the interests of justice require the appointment of
7 counsel or the need for an evidentiary hearing at this time. Accordingly, it is **ORDERED:**

8 (1) Mr. Wright's motions for evidentiary hearing and for the appointment of counsel
9 (Dkts. 9 and 10) are **DENIED without prejudice.**

10 (2) The Clerk shall send a copy of this Order to Mr. Wright and to counsel for
11 Respondent.

12 DATED this 17th day of February, 2016.

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15 Karen L. Strombom
16 United States Magistrate Judge
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